

REMARKS

These remarks are directed to the final office action mailed December 31, 2007, setting a three month shortened statutory period for response set to expire on February 29, 2008. The office action issued by the Examiner and the citations referred to in the office action have been carefully considered.

Prompt reconsideration is requested in view of the above claim amendments and the following remarks. As indicated, amendments introduce no new matter.

Claim Rejections under 35 USC § 101

Claims 69-81 are rejected under 35 USC § 101 for being directed to non-statutory subject matter. Claim 69 has been amended to overcome this rejection. Claim 81 has been canceled. Applicant submits that claim 69 and the claims dependent therefrom are now patentable under 35 USC § 101.

Claim Rejections under 35 USC § 102 and § 103

Claims 69-73 are rejected under 35 USC § 102 as being anticipated by Meyer (U.S. Patent No. 5,012,820). Claims 74, 75, and 76 are rejected under 35 USC § 103 as being obvious over Meyer in view of Grove, et al. (U.S. Patent No. 6,010,468). Claims 77-80 are rejected under 35 USC § 103 as being obvious over Meyer in view of Wood, et al. (U.S. Patent Pub. No. 2002/0143277).

Claim 81 is not rejected under 35 USC § 102 and § 103. Claim 69 has been amended to incorporate the limitations of canceled claim 81.

Claim 69 has been amended to recite a system comprising a motion causing device “**for assisting** the at least one joint in movement,” wherein the motion causing device follows a protocol implemented “when self-actuation **is detected** by the at least one EMG sensor **but is not detected** by the at least one joint position sensor.”

Meyer teaches a device for “the investigation of muscular contraction” (column 3, lines 17-18) which includes an electric motor (9) **not for assisting** joint movement but rather for **resisting** joint movement by “providing a counterforce against the force of the muscle during the period of muscle contraction.” Furthermore, Meyer’s device does not disclose a controller for implementing a protocol, only a recording device (41). There is also no protocol implementation by a controller when **both** self-actuation is detected by an EMG sensor and self-actuation is not detected by a joint position sensor.

The motion-causing device, as taught by Applicants, operates when two conditions are met: 1) an EMG sensor detects an electric potential fluctuation from the nerve of a patient’s muscle, the electric potential fluctuation initiated by the patient’s attempt to move the muscle and corresponding limb; and 2) the relevant joint position sensor does not detect any movement from the corresponding limb in response to the electric potential fluctuation. When both conditions are met, the motion-causing device activates and moves the corresponding limb.

Applicants submit that none of the references teach or suggest all of the elements and limitations of independent claim 69. Therefore independent claim 69 and the claims thereby dependent thereon are patentable under 35 USC §102 and 103. The Examiner is respectfully requested to reconsider and now withdraw the Examiner’s rejection.

Conclusion

In view of the above, it is respectfully submitted that this application is now in good order for allowance, and such early action is respectfully solicited. Should matters remain, which the Examiner believes could be resolved in a telephone interview, the Examiner is requested to telephone Applicants’ undersigned attorney.

The Director is authorized to charge any additional fee(s) or any underpayment of fee(s), or to credit any overpayments to **Deposit Account Number 50-2638**. Please ensure that Attorney Docket Number 058482-010101 is referred to when charging any payments or credits for this case.

Respectfully submitted,


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